

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re BLUE DOG AT 399 INC.,  Debtor.	Chapter 11  Case No. 15-10694-MEW
BLUE DOG AT 399 INC.,  Plaintiff,  -against-  SEYFARTH SHAW, LLP and RALPH BERMAN,  Defendants.	Adv. Pro. No. 19-01029
SEYFARTH SHAW, LLP and RALPH BERMAN,  Third-Party Plaintiffs,  -against-  ELIZABETH SLAVUTSKY,  Third-Party Defendant.	

**ORDER DENYING REQUEST TO FILE MOTION FOR SUMMARY JUDGMENT**

On February 10, 2020, Blue Dog at 399 Inc. filed a request for a conference, pursuant to Local Bankruptcy Rule 7056-1, to seek leave to file a motion for summary judgment on the issues of (1) whether the conduct of defendant Ralph Berman fell below the applicable standard of care, and (2) whether Defendants could assert the defense of contributory negligence. The Court considered the Plaintiff's request at a Conference held on February 26, 2020 at which both

the Plaintiff and Defendants appeared and made arguments. After due deliberation and good cause appearing therefor, and for the reasons stated on the record at the Conference,

**IT IS HEREBY ORDERED**, that Plaintiff's request for leave to file a motion for summary judgment as to whether the conduct of defendant Ralph Berman fell below the applicable standard of care is denied without prejudice, such that Plaintiff may renew its request to move for summary judgment on this issue after the close of fact discovery or after the close of all discovery; and it is further

**ORDERED**, that Plaintiff's request for leave to file a motion for summary judgment as to whether Defendants could assert the defense of contributory negligence is denied.

Dated: New York, New York  
April 16, 2020

**s/Michael E. Wiles**  
HONORABLE MICHAEL E. WILES  
UNITED STATES BANKRUPTCY JUDGE